# **REMARKS**

1. Status of the Application. Claims 1-20 were believed to be pending in the application as examined. The Office Action, in recognizing the pendancy of only claims 1-10, appears to overlook the submission of a Preliminary Amendment filed on October 4, 2004 ("the Preliminary Amendment," copy attached), receipt of which having been acknowledged by the Office as evidenced by the stamped return receipt postcard (copy attached). The Transmittal Letter (Form PTO-1390, copy attached) accompanying the Preliminary Amendment reflects a fee calculation commensurate with the submission of claims 1-20.

Submission of the Preliminary Amendment resulting in pendancy of claims 1-20, and not merely claims 1-10, is further evidenced by the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 C.F.R. 1.495 dated February 23, 2005 (copy attached), which Notice explicitly acknowledges receipt of the October 4, 2004 Preliminary Amendment. The Office Action itself appears to acknowledge, in Item 1 thereof, the submission of communications on October 4, 2004, which would include the Preliminary Amendment.

Claims 1-20 are set forth on the foregoing separate sheets as though the Preliminary Amendment had been submitted and entered, and thus reflects only claim amendments proposed in this Response.

- 2. Objection to the Abstract. The Abstract was objected to as apparently being a photocopy of the abstract from the corresponding PCT application. A new Abstract is proposed as set forth above. The new Abstract is believed to comply with applicable MPEP guidelines. Reconsideration and withdrawal of the objection to the Abstract is therefore requested.
- 3. Objection to the Specification. The Office Action sets forth suggested "guidelines" for the "Arrangement of the Specification," which suggestion the undersigned interprets to be an objection to the Specification. It is believed that the accompanying Substitute Specification is in full conformance with 37 C.F.R. § 1.77(b),

including appropriate section headings. No new matter is added through the rearrangement of the Specification as suggested by the Office Action.

- 4. Claim Objections. Claim 10 was objected to as being improper as being a multiple dependent claim depending from another multiple dependent claim. The basis of this objection was eliminated through the amendments set forth the in the Preliminary Amendment referenced above. Reconsideration and withdrawal of the objection to claim 10 is therefore requested, such that claim 10 as amended in the Preliminary Amendment and re-presented above will be considered on the merits.
- 5. The Section 112 Rejections. Claims 3-9 were rejected under 35 U.S.C. § 112 as being indefinite.

Regarding claim 3, the Office Action suggests that there is no antecedent basis for "the vertical bar (18)." Claim 3 is amended herein to refer to "a vertical bar (18)." This amendment is believed to obviate the basis for the § 112 rejection of claim 3; reconsideration and withdrawal of the rejection is therefore respectfully requested.

Regarding claim 4, the Office Action suggests that there is no antecedent basis for "the ends (22a) of the horizontal bars (22) of the T" therein. Claim 4 is amended herein to clarify that the T-shaped structural framework comprises "a horizontal bar (22)" and "opposing ends (22a)." No new matter is added by virtue of the amendments to claim 4, as is evident from, *inter alia*, Figures 1 and 2. These amendments are believed to obviate the basis for the § 112 rejection of claim 4; reconsideration and withdrawal of the rejection is therefore respectfully requested.

Regarding claim 5, the Office Action suggests that there is no antecedent basis for "the raised cross bar (26)" and "the two teeth (28)." Claim 5 has been amended herein to refer to the frame (12) comprising a fork "having a raised cross bar (26)" and "two teeth (28)." No new matter is added by virtue of the amendments to claim 5, as is evident from, *inter alia*, Figures 1 and 2. These amendments are believed to obviate the basis for the § 112 rejection of claim 5; reconsideration and withdrawal of the rejection is therefore respectfully requested.

Regarding claim 7, the Office Action suggests that there is no antecedent basis for recitation of "the two teeth." It is believed that the above-referenced amendments to claim 5 provide the necessary antecedent basis. Thus, reconsideration of the rejection of claim 7 on this basis is therefore requested.

The Office Action further suggests with respect to claim 7 that there is no antecedent basis for the recited "the ends of the teeth." Claim 7 has been amended herein to refer simply to "said teeth (28)," which recitation finds the necessary antecedent basis in claim 5 as amended herein. Reconsideration and withdrawal of the rejection of claim 7 on this basis is therefore requested.

Regarding claim 9, the Office Action suggests that there is no antecedent basis for the recitation of "said padding member." It is respectfully submitted that antecedent basis for this recitation is found in claim 8, such that no amendment to claim 9 is necessary. Reconsideration and withdrawal of the § 112 rejection of claim 9 is therefore respectfully requested.

6. The Section 103 Rejections. Claims 1-9 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,255,957 to Opsvik et al. ("Opsvik") in view of U.S. Patent No.; 6,113,186 to Holmes et al. ("Holmes"). According to the Office Action, Opsvik shows "a seating module comprising a framework with a pommel element, a frame arranged above the framework and provided with a cantle element and means for connecting the frame to the framework including a joint allowing the frame to tilt in relation to the framework...." The Office Action concedes that Opsvik fails to show an elastic membrane on the frame, but concludes that it would have been obvious to incorporate the elastic membrane purportedly shown in Holmes into the Opsvik seating module.

It is respectfully submitted that the Office Action mischaracterizes *Opsvik* in substantively significant ways, and that in so doing, the Office Action reaches a conclusion that is not supported by the prior art relied upon.

In particular, it is believed that the Office Action's assertion that *Opsvik* discloses "a seating module comprising a framework with a pommel element, a frame arranged

above the framework and provided with a cantle element..." (emphasis added) is wholly conclusory and is utterly without substantiation in fact. Nowhere does *Opsvik* either teach or suggest a seating module comprising a "structural framework" and "a frame arranged above the structural framework," (emphasis added) as is recited in claim 1 of the application.

On the contrary, *Opsvik* seems to clearly disclose nothing more than "a seat" (*Opsvik*, col. 6, line 9.) Furthermore, *Opsvik* states explicitly that "the chair itself is generally designated by reference numeral 1 [and] may as such be of *a known type*, comprising a seat 2 which is carried by a horizontally extending column 3 with included height adjustment...." (*Opsvik*, col. 6, lines 1-11) (emphasis added).

Significantly, nowhere does *Opsvik* teach or suggest a seating module as disclosed and claimed in the instant application, having a "structural framework" and a "frame," where the frame is arranged above the structural framework and is coupled thereto by means of a "joint" which allows the frame to tilt in relation to the structural framework."

In sum, it is submitted the Office Action's basis for rejection under § 103 is based upon incorrect characterization of *Opsvik*, leading to the complete disregard to numerous explicitly recited claim terms. *Opsvik* neither teaches nor suggests the presence of a "structural framework" (element 10 in the present disclosure), or a separate "frame" (element 12 in the present disclosure) which are connected by a "joint" (element 14) allowing the frame to tilt in relation to the structural framework. *Opsvik* discloses merely "a seat," and hence can in no respect be fairly characterized as teaching or suggesting an arrangement of a "structural framework" and a "frame," connected by a "joint" which allows for tilting of the frame "in relation to the structural framework."

The Office Action relies upon *Holmes* to provide the teaching of an "elastic membrane" that is conceded to be lacking the *Opsvik*, yet is further called for in claim 1 of the present application. It is respectfully submitted that the Office Action's reliance upon *Holmes* in this regard is misplaced in at least two respects.

Firstly, the "membrane" disclosed by *Holmes*, at least as far as can be generously presumed though a study of that reference, must be likened to the "backrest 42 and seat 50" of the *Holmes* chair. (*Holmes*, Fig. 4, and col. 3, line 5). However, *Holmes* describes these components as comprising "a flexible material such as fabric or leather," (*Holmes*, col. 3, lines 6-7), neither of which materials is traditionally known to possess "elastic" properties. Nothing in *Holmes* either teaches or suggests an *elastic* material, such as is disclosed and claimed in the present application, which elasticity is crucial for permitting the tilting of the frame with respect to the structural framework, as disclosed and claimed in the present application.

Secondly, nothing in the *Holmes* disclosure teaches or suggests that the material comprising either the seat or the backrest performs a function of defining "a rest position of the frame ... in relation to the structural framework." (see, e.g., Claim 1). No fair characterization of *Holmes* can infer such functionality, inasmuch as *Holmes*, like *Opsvik*, neither teaches nor suggests a "frame" and a "structural framework" that could have *any* sort of relative position defined by an elastic membrane.

Thus, it is submitted that neither *Opsvik* nor *Holmes*, taken either singly or in the proposed hypothetical combination, even arguably discloses a seating module as disclosed and claimed in the present application. Reconsideration and withdrawal of the § 103 rejection of claim 1 is therefore respectfully requested.

In view of the clear deficiencies of *Opsvik* and *Holmes*, either singly or in combination, in rendering obvious the novel arrangement of the seating module disclosed and claimed in the present application, as set forth above, it follows that the remaining § 103 rejections of dependent claims 2 through 9 are likewise unfounded in fact, inasmuch as each of these claims by definition recites further limitations that, without the necessity of going into individual detail, cannot be rendered obvious by the relied-upon prior art. Reconsideration and withdrawal of the § 103 rejections of claims 2 through 9 is therefore also respectfully requested.

It is noted above that the Office Action does not recognize what the Applicants regard to be the legitimate pendancy of claims 11-20 in the application. Nevertheless, the undersigned takes this opportunity to note that the arguments set forth with respect

to claims 1 through 10 above apply with equal force and effect with respect to claims 11 through 20, which likewise depend, either directly or indirectly, from independent claim 1, which has been shown above to clearly distinguish itself from the prior art cited in the Office Action. Therefore, while no specific objections or rejections to claims 11 through 20 can be addressed herein, it is believed that any such objections or rejections would be effectively countered by the remarks set forth above. (Re)consideration and allowance of claims 11 through 20 is therefore respectfully requested.

\* \* \* \* \*



# **CONCLUSION**

In view of the foregoing amendments and remarks, it is believed that each of the claims 1 through 20 pending in the present application recite combinations of elements neither taught nor suggested by the prior art, and that the application as a whole is in proper form and condition for allowance. If the Examiner believes that the application can be placed in even better condition for allowance, he is invited to contact the undersigned directly at the telephone number listed below. Elsewise, it is respectfully requested that the application be further considered on the merits and advance to allowance and issuance at the earliest possible date.

Respectfully submitted,

Date: 9- MAY- 2006

Hugh R. Kress Reg. No. 36,574

**BROWNING BUSHMAN P.C.** 

5718 Westheimer

Suite 1800

Houston, Texas 77057 713.266.5593 (voice) 713.266.5169 (fax)

ATTORNEY FOR APPLICANTS



# United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Vinginia 22313-1450 www.uspugov

U.S. APPLICATION NUMBER NO.

10/510,456

Andre Leguen

GLN-050US

INTERNATIONAL APPLICATION NO.

PCT/IB03/01899

LA. FILING DATE

POST OFFICE BOX 2928

FIRST NAMED APPLICANT

Andre Leguen

GLN-050US

INTERNATIONAL APPLICATION NO.

PCT/IB03/01899

LA. FILING DATE

03/14/2003

04/02/2002

CONFIRMATION NO. 2294
371 ACCEPTANCE LETTER
\*OC000000015246880\*

Date Mailed: 02/23/2005

BELLAIRE, TX 77402-2928

### NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

10/04/2004

DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS

10/04/2004

DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 10/04/2004
- Copy of the International Search Report filed on 10/04/2004
- Preliminary Amendments filed on 10/04/2004
- Information Disclosure Statements filed on 11/24/2004
- Oath or Declaration filed on 10/04/2004
- Request for Immediate Examination filed on 10/04/2004
- U.S. Basic National Fees filed on 10/04/2004
- Priority Documents filed on 10/04/2004
- Power of Attorney filed on 10/04/2004

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

LAMONT M HUNTER Telephone: (703) 308-9140 EXT 201

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/903 (371 Acceptance Notice)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE FORM PTO-1390 (REV. 10-2003) ATTORNEY 'S DOCKET NUMBER GLN-050US TRANSM**ETAL LETTER** TO THE UNITED STATES U.S. APPLICATION NO. (If known, see 37 CFR 1.5 DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371 INTERNATIONAL APPLICATION NO. INTERNATIONAL FILING DATE PRIORITY DATE CLAIMED 14 March 2003 PCT/IB03/01899 2 April 2002 TITLE OF INVENTION ERGONOMIC SEATING MODULE AND SEAT FITTED WITH SAID MODULE APPLICANT(S) FOR DO/EO/US Andre LEGUEN and Catherine CANTENOT Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information: 1. X This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. 4. X The US has been elected (Article 31). 5. X A copy of the International Application as filed (35 U.S.C. 371(c)(2)) is attached hereto (required only if not communicated by the International Bureau). has been communicated by the International Bureau. is not required, as the application was filed in the United States Receiving Office (RO/US). 6. An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). is attached hereto. has been previously submitted under 35 U.S.C. 154(d)(4). 7. Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) are attached hereto (required only if not communicated by the International Bureau). have been communicated by the International Bureau. have not been made; however, the time limit for making such amendments has NOT expired. have not been made and will not be made. 8. An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371 (c)(3)). 9. X An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). 10. An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). Items 11 to 20 below concern document(s) or information included: 11.  $\square$ An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 12. An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 13. X A preliminary amendment. 14. 🔲 An Application Data Sheet under 37 CFR 1.76. 15. A substitute specification. A power of attorney and/or change of address letter. 16.  $\square$ 17. 🔲 A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825. 18. A second copy of the published international application under 35 U.S.C. 154(d)(4). 19.  $\square$ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). Other items or information: Form IB308 20. X

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# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	PCT/IB03/01899	Group Art Unit	
Filing Date	13 March 2003	Examiner Name	
First Named Inventor	Andre LEGEUN	Attorney Docket No.	GLN-050US
Title: ERGONOMIC S	EATING MODULE AND SEA	T FITTED WITH SAID MO	ODULE

# PRELIMINARY AMENDMENT

Mail Stop PCT Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

October 4, 2004

Dear Sir:

# **INTRODUCTORY COMMENTS**

The above-identified application is being filed in the U.S. Patent Office under 35 U.S.C. § 371. This application is timely filed, October 2, 2004 having fallen on a Saturday. Kindly amend the application in the following manner:

U.S. EXPRESS MAIL

U.S. Express Mail No: US Date of Deposit: October 4, 2004

This correspondence is being deposited with the Express Mail Post Office to Addressee service of the United States
Postal Service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to:
Commissioner for Patents, P.O. Box 1450, Arlington, VA 22313-1450

### **AMENDMENTS TO CLAIMS**

Seating module for a chair, characterized in that it includes: 1. (Original) - a structural framework (10) provided with a pommel element (20),- a frame (12) arranged above the structural framework and provided with a cantle element (26), said structural framework and said frame having planar symmetry, - means for connecting the frame to the structural framework, including a joint (14) which allows the frame (12) to tilt, in relation to the structural framework (10), about an axis perpendicular to the plane of symmetry, and - a seat connecting the frame (12) to the pommel element (20) and formed of an elastic membrane (16) whose function is to define a rest position of the frame (12) in relation to the structural framework (10) and to return it to this position when a user tilts it in one direction or another. 2. Seating module according to claim 1, characterized in that in the (Original) rest position, the frame (12) is inclined forwards by an angle of approximately 10° in relation to the ground. Seating module according to claim 1, characterized in that, in 3. (Original) plane, the structural framework (10) has a T-shape, the vertical bar (18) of which, arranged in the plane of symmetry, extends forwards and is bent upwards to end in said pommel element (20). (Original) Seating module according to claim 3, characterized in that the 4. ends (22a) of the horizontal bars (22) of the T are raised to form the joint with the structural framework (10).

Seating module according to claim 1, characterized in that the

frame (12) is a fork, which has, in plane, the shape of a U with an

5.

(Original)

axis disposed in the plane of symmetry, the raised cross bar (26) of which forms said cantle element and the two teeth (28) of which extend forwards; substantially as far as the pommel element (20), underneath it.

- 6. (Original) Seating module according to claim 5, characterized in that said membrane (16) forms a support surface that is convex along a line perpendicular to the plane of symmetry and concave along a line inscribed in said plane.
- 7. (Original) Seating module according to claim 6, characterized in that said membrane (16) is fixed:
  - between the pommel element (20) and the cantle element (26),
  - between the two teeth (28) of the fork (12), and
  - between the ends of the teeth (28) and the pommel element (20).
- (Currently Amended) Seating module according to any one of claims 1 to 7claim
   1, characterized in that said membrane (16) is covered with a padding member (32) forming a cushion.
- 9. (Original) Seating module according to claim 8, characterized in that said padding member (32) includes a longitudinal groove (34) for forming a space to receive the user's coccyx.
- 10. (Currently Amended) Chair fitted with a support (36) in contact with the ground and a seating module (44) according to any one of claims 1 to 9 claim 1 and fixed to said support, characterized in that said support includes an arm (50) extending forwards and upwards and carrying a transverse bar (48) forming a support for the user's knees.

11. Seating module according to claim 2, characterized in that said (New) membrane (16) is covered with a padding member (32) forming a cushion. 12. (New) Seating module according to claim 3, characterized in that said membrane (16) is covered with a padding member (32) forming a cushion. 13. (New) Seating module according to claim 4, characterized in that said membrane (16) is covered with a padding member (32) forming a cushion. 14. (New) Seating module according to claim 5, characterized in that said membrane (16) is covered with a padding member (32) forming a cushion. 15. (New) Seating module according to claim 6, characterized in that said membrane (16) is covered with a padding member (32) forming a cushion. 16. (New) Seating module according to claim 7, characterized in that said membrane (16) is covered with a padding member (32) forming a cushion. 17. (New) Chair fitted with a support (36) in contact with the ground and a seating module (44) according to claim 2 and fixed to said support, characterized in that said support includes an arm (50) extending forwards and upwards and carrying a transverse bar (48) forming a support for the user's knees. 18. (New) Chair fitted with a support (36) in contact with the ground and a seating module (44) according to claim 3 and fixed to said

support, characterized in that said support includes an arm (50)

extending forwards and upwards and carrying a transverse bar (48) forming a support for the user's knees.

19. (New)

Chair fitted with a support (36) in contact with the ground and a seating module (44) according to claim 4 and fixed to said support, characterized in that said support includes an arm (50) extending forwards and upwards and carrying a transverse bar (48) forming a support for the user's knees.

20. (New)

Chair fitted with a support (36) in contact with the ground and a seating module (44) according to claim 5 and fixed to said support, characterized in that said support includes an arm (50) extending forwards and upwards and carrying a transverse bar (48) forming a support for the user's knees.

### **REMARKS**

The claims have been amended to change the dependency in claims 8 and 10. New claims 11 through 20 are added in view of the change in claim dependency of claims 8 and 10. The new claims are identical to claims 8 and 10 except in their dependency.

It is respectfully submitted that no new subject matter has been introduced by way of these amendments.

Respectfully submitted,

By: \_\_\_\_\_

Deborah G. VandenHoff Agent for the Applicant Registration No. 45,176

Van Tassel & Associates P.O. Box 2928 Bellaire, TX 77402-2928 Ph: (713) 839-1749

Fax: (713) 839-1790

Submitted w/the Documents Specified Below

VERIFICATION OF RECEIPT

Mailing Date: Movember 20,2204
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- ☐ Response to Notice of Missing Requirements 

  ☐ Information Disclosure Statement
  - Assignment & Recordation Sheet
    - ☐ Preliminary Amendment Transmittal Letter:
- ☐ Fees: Authorized to debit Deposit Account
  - □ Other:

Please date stamp and return this self-addressed stamped post card. Thank you.

# Submitted w/the Documents Specified Below

VERIFICATION OF RECEIPT

OCT

☐ International Preliminary Examination Report

☐ Information Disclosure Statement ☐ Assignment & Recordation Sheet

□ Declaration & Power of Attorney

Please date stamp and return this self-addressed stamped post card. Thank you.

⊠ Fees: Authorized to debit Deposit Account

☑ Other: Form PCT/IB/308

DT14 Rec'd PCT/PTO

☑ International Application No. PCT/IB03/01899

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Mailing Date: October 4, 2004 Express Mail Label No.: ÉWI 94, 002 241

Attorney Docket # GLN-050US